Treas. Reg. § 1.417(e)-1T Restrictions and valuations of distributions from plans subject to section 401(a)(11) (temporary).

* * *

(ii) In determining the present value of the nonforfeitable accrued benefit, a defined benefit plan must use an interest rate not greater than the rate used by the Pension Benefit Guaranty Corporation (PBGC) to value immediate annuities for plans terminating as of either (A) the proposed distribution (or benefit commencement) date or (B) the first day of the plan year that contains the proposed distribution (or benefit commencement) date (the PBGC rate.).

* * *

(e) *Present value requirement*—(1) *Interest rate.* For purposes of determining the present value of any accrued benefit and for purposes of determining the amount (subject to section 415) of any distribution, a defined benefit plan must use an interest rate not greater than the PBGC rate determined in the same manner and time as set forth in paragraph (b)(2)(ii). The same rate must be used for both purposes.

50 Fed. Reg. 29371, 29375-76 (1985).

SEARS PENSION PLAN

(As Amended and Restated Effective
as of January 1, 1991)

January 1, 1991

S001545

7.8. Actuarial Equivalents. Except where covered by a table attached to the Plan, in determining whether one form of benefit is the "actuarial equivalent" of another form of benefit under the Plan, the following will be the actuarial assumptions to be employed under the Plan:

Interest Rate: 8% per annum, compounded annually

Mortality Table: The Unisex Pension 1984 Table, set back one year,

except that:

(a) In calculating the lump sum actuarial equivalent of any amount to be paid in a lump sum pursuant to subsection 7.4, the interest rate to be employed will be:

(i) for determinations effective prior to January 1, 1991,

(A) the lesser of 8% or the interest rate determined under clause (i)(B) below with respect to that portion of such participant's monthly retirement income which was accrued through December 31, 1985; and

(B) the interest rate (immediate or deferred, whichever is appropriate) which would be used (as of the date of distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination, with

respect to that portion of such participant's monthly retirement income accrued after December 31, 1985; and

(ii) for determinations effective after December 31, 1990,

(A) the lesser of 8% or the interest rate determined under clause (i)(B) above with respect to that portion of such participant's monthly retirement income which was accrued through December 31, 1990; and

(B) with respect to that portion of such participant's monthly retirement income which was accrued after December 31, 1990,

(I) if the sum of the lump sum value determined under clause (ii)(A) above plus the lump sum value of the participant's post-1990 accrued benefit calculated by using the interest rate determined under clause (i)(B) above are less than $25,000, the interest rate determined under clause (i)(B), and

(II) if the lump sum value in clause (ii)(B)(I) above is at least $25,000, 110% of the interest rate determined under clause (i)(B) above, provided that use of the 100% factor may not result in lump sum of less than $25,000.

(b) In calculating amounts payable pursuant to options under subsections 7.1 and 7.2, the above-described mortality table shall be applied without any setback.

* * *

8.2. General Powers, Rights and Duties. In addition to the powers, rights and duties conferred or imposed upon the Pension Plan Administrator elsewhere in the Plan or by law, the Pension Plan Administrator shall have the following powers, rights and duties:

(a) To conclusively determine, in his sole discretion, all questions arising under the Plan, including the power to determine the rights and eligibility of employees, participants, contingent annuitants and other persons, and the amounts of their retirement incomes or other benefits under the Plan, and to remedy ambiguities, inconsistencies or omissions, and, without limiting the generality of the foregoing, where records relating to any employee's continuous service, credited past service, credited future service, and compensation are not readily available, to estimate any or all of such factors, which estimates will be conclusive on all persons unless demonstrated to be incorrect to the satisfaction of the Pension Plan Administrator.